

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7169

BILL NUMBER: HB 1163

DATE PREPARED: Feb 27, 2002

BILL AMENDED: Feb 26, 2002

SUBJECT: Waiver of Preexisting Conditions.

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**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) This bill provides that an individual policy of accident and sickness insurance or a group policy of accident and sickness insurance under which a certificate of coverage is issued to an individual member of a nonemployer-based association or discretionary group may contain a waiver of coverage for a specified condition under certain circumstances. The bill requires the Department of Insurance to establish a list of waivers that may be contained in a policy. The bill specifies that an offer of coverage under a policy that includes a waiver does not preclude eligibility for an Indiana Comprehensive Health Insurance Association (ICHIA) policy. It also requires reporting by insurers to the Department of Insurance.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) This bill would allow for individual insurance policies, association group policies, and discretionary group policies that is not employer-based to include a waiver of coverage not exceeding 5 years in length. (Current statute provides for a maximum 12-month exclusion for preexisting conditions.) In addition, the bill contains a provision that the insurer review the underwriting basis for the waiver one time per year upon request of the insured and remove the waiver if the insurer determines that evidence of insurability is satisfactory. The waiver of coverage cannot be for coverage of a condition required under state law or for a mental health condition. The impact on the state, if any, is a potential decrease in demand for ICHIA policies. The impact upon the number of ICHIA policies issued will depend upon the number of people willing to forgo coverage for a waived condition in order to obtain regular insurance.

The Department of Insurance is required to create a data reporting form and compile data from insurance producers regarding waivers. This information shall include: the number of policies that the insurer issued with a waiver; a list of specified conditions that the insurer waived; the number of waivers issued for each specified condition; the number of waivers issued categorized by the period of time for which coverage of

a specified condition was waived; and the number of applicants who were denied insurance coverage by the insurer because of a specified condition. The Department will report this compiled information to the Senate Health and Provider Services Committee and the House Insurance, Corporations, and Small Business Committee.

This bill requires the Department to establish a list of waivers, based on a list of diagnostic and procedure codes, that may be contained in a policy. The Department can absorb the cost of this rule making given their current budget and resources.

Background: ICHIA is the high-risk insurance program offered by the state. ICHIA is funded through premiums paid by individuals obtaining insurance through ICHIA, by assessments to member companies (insurers, health maintenance organizations, and others that provide health insurance or health care coverage in Indiana), and the state General Fund. To be eligible, Indiana residents must show evidence of: (1) denied insurance coverage or an exclusionary rider; (2) one or more of the "presumptive" conditions such as AIDS, cystic fibrosis, or diabetes; (3) insurance coverage under a group, government, or church plan making the applicant eligible under the federal Health Insurance Portability and Accountability Act (HIPAA); or (4) exhausted continuation coverage (e.g., COBRA). Premium rates must be less than or equal to 150% of the average premium charged by the five largest individual market carriers.

The excess of expenses over premium and other revenue is made up by assessments on member insurance carriers. The Employee Retirement Income Security Act (ERISA) prevents assessments against self-funded insurance plans. Members may, in turn, (1) take a credit against Premium Taxes, Gross Income Taxes, Adjusted Gross Income Taxes, Supplemental Corporate Net Income Taxes, or any combination; or (2) include in the rates for premiums charged for their insurance policies amounts sufficient to recoup the assessments. The amount of assessments that are recouped by insurance carriers through tax credits or premium increases is not known at this time. Total expenses for the ICHIA program for CY 2000 were \$53.22 M with premium contributions of \$19.78 M and assessment receipts of \$43 M. Enrollment in the ICHIA program as of June 1, 2000, was 7,662.

Explanation of State Revenues: See *Explanation of State Expenditures*, above, regarding the ICHIA program.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Comprehensive Health Insurance Association.

Local Agencies Affected:

Information Sources: M-Plan Testimony to the Interim Study Committee on the Indiana Comprehensive Health Insurance Association, September 20, 2000. Indiana Comprehensive Health Insurance Association Summary for Health Finance Commission, August 8, 2001. Indiana Comprehensive Health Insurance Association schedule of assessments for 1991-2000, Health Finance Commission, August 8, 2001; Greg Thomas, Chief Deputy Commissioner, Department of Insurance, (317) 232-2406.